

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Case No. CR 16-00095-WCG-1
)	Milwaukee, Wisconsin
vs.)	
)	November 17, 2017
CHARLES R. SZYMAN,)	9:20 a.m.
)	
Defendant.)	

TRANSCRIPT OF JURY TRIAL EXCERPT
GOVERNMENT CLOSING & REBUTTAL CLOSING ARGUMENT
BEFORE THE HONORABLE WILLIAM C. GRIESBACH
UNITED STATES CHIEF DISTRICT JUDGE

APPEARANCES:

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GOVERNMENT CLOSING & REBUTTAL ARGUMENT

Transcribed From Audio Recording

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9:20 a.m.

THE COURT: So that concludes my beginning instructions and the substantive instructions that are to guide you in your deliberations. The closing instructions we'll talk about your role as jurors and the selection of a foreperson. Before we get to those, though, you'll hear the arguments from the attorneys.

Mr. Jacobs?

MR. JACOBS: Thank you.

THE COURT: Mr. Jacobs, before you begin, let me -- I thought I had -- oh, yeah. I wonder if our bailiff or court security officer could hand out these copies of the verdicts on the colored paper so they get an idea of what the verdict looks like. There's not -- every other juror should get one. Look on.

(Brief pause.)

THE COURT: That's just to give you an idea what the verdict is. We'll give you an original one that will be the verdict that you'll write in your decisions on. But that's what it looks like.

So, with that in mind then, I'd just ask that you put

1 it aside unless and until the attorneys refer to them.

2 Go ahead, Mr. Jacobs.

3 GOVERNMENT CLOSING ARGUMENT

4 MR. JACOBS: May it please the court, Dr. Szyman,
5 counsel, ladies and gentlemen of the jury.

6 "Don't tell me what you want. Don't tell me what you
7 don't want, tell me what you want.

8 "What strength? Everybody loves 30s. It's got a
9 kick. That's why everybody likes it. So I don't care, how many
10 would you need though? They changed that formula and that's how
11 people have come to do heroin because they want that so
12 everybody is doing heroin now. [Indiscernible] people love this
13 OxyContin."

14 That's the defendant Dr. Szyman. That's him. That's
15 his attitude when handing out, when distributing, when
16 dispensing narcotics.

17 Now, I think we all know that if someone confronted us
18 or if we had to testify at trial and was accusing us, we could
19 probably put on a suit, shave, look good, come up with a good
20 story to avoid responsibility for what you had done. Your job
21 as jurors is to determine what the defendant did, what he did
22 knowingly and intentionally.

23 And so I think the evidence that best identifies what
24 someone knows, what someone does, what someone intended to do,
25 is what they did, how they acted, and what they said when they

1 didn't know they were being watched. When they were speaking
2 candidly. Not to a jury to avoid responsibility for their
3 conduct. These are the words of the defendant Dr. Szyman
4 talking to the undercover agents in this case.

5 Now, again, I know you sat through the evidence in
6 this case, but I'm going to review briefly what the charges are
7 about and then go through the evidence.

8 Dr. Szyman is charged with illegally distributing,
9 dispensing controlled substances. And as the court has told
10 you, oxycodone, morphine, fentanyl, amphetamine, hydrocodone,
11 methadone, hydromorphone, those are all narcotics. They're all
12 controlled substances. They're all opioids I think we've heard.

13 Actually amphetamine is not an opioid. That's a
14 different controlled substance. That's the Adderall. That's an
15 upper. That's speed. Part of the prescriptive speedball
16 Dr. King described.

17 But they're all controlled substances. And as a
18 general matter it's illegal to distribute those controlled
19 substances. Just flat-out illegal.

20 Now, Dr. Szyman, because he's a physician, a doctor of
21 osteopathic medicine, he has some ability to legally distribute
22 those, but he can only do that if he does it for a legitimate
23 medical purpose within professional practice. That is, he's
24 charged with distributing them outside of professional practice,
25 not for legitimate purpose. And that's illegal.

1 As I mentioned, he's the doctor of osteopathic
2 medicine. He's licensed here in Wisconsin. As part of that he
3 had at least at this time a registration from DEA who gave him
4 very limited authority to an exception from the law that
5 prohibits distributing controlled substances, but only for a
6 legitimate medical purpose within the scope of professional
7 practice.

8 You heard from an expert in this case, Dr. Timothy
9 King. Well-educated medical doctor. He's board certified. Not
10 just in anesthesiology, but in pain medicine and, in effect,
11 addiction medicine. I think you've heard his background, his
12 work.

13 And he explained to you the practice of medicine. And
14 in many ways it's common sense. It's understandable to all of
15 us. It's -- the practice of medicine in some respects is
16 problem-solving.

17 You know, first you gotta figure out what's the
18 problem. You make a diagnosis. Identify what the problem is.
19 And I think Dr. King described how you do that.

20 Well, A, you look at past medical records;

21 B, examine the patient;

22 C, maybe perform some tests and some x-rays, MRIs,
23 other imaging. Some type of tests to help -- you gotta identify
24 a problem, right? Because you can't solve a problem unless you
25 can identify a problem.

1 And you have to have things that support your
2 diagnosis. You can't just be, I don't know, I think today I'm
3 going to diagnose this person with X. And we have to come up
4 with a treatment plan, right? That's really what
5 problem-solving is in all forms of life.

6 That is, you identify what the problem is and you say
7 how am I going to solve it. You know, you have to say how am I
8 going to get from point A, the diagnosis I've established, to
9 point B, a cure? How am I going to address that?

10 And in doing that, as Dr. King explained, you need to
11 at least take into account some of the risks. Because as we've
12 seen, there are some risks with the opioids, the narcotics that
13 Dr. Szyman gave people.

14 And so first you have to have the problem;

15 Second, come up with a treatment plan to get to the
16 solution of the problem.

17 And then figure your path. Is the path you're taking,
18 does it have risks that make that untenable.

19 You know, if getting Heidi Buretta to be able to work
20 kills her, those risks outweigh that treatment plan. Right?
21 That's a side effect that says, no, no, you can't do that. You
22 can't just say, hey, this allowed her to work. She'll be dead.

23 You have to at least take into account those risks.
24 And there are [Indiscernible] other obviously less severe risks.
25 You know, whether it's becoming a zombie. Whether it's

1 tremendous constipation. Whether it's nausea. Whether it's
2 addiction. Whether it's withdrawal. Whether it's that, as
3 Dr. Szyman knows, you start on this path and people start -- end
4 up doing heroin.

5 And I'll come around to this again. But I want you to
6 think about Alex Krizizke. 25-year old kid. Maybe some of you
7 have kids that age.

8 MR. BRINDLEY: Objection. That's an improper comment,
9 Judge. That's improper.

10 THE COURT: Some of you have kids that age?

11 MR. BRINDLEY: Speaking to the jury directly like
12 that's improper.

13 THE COURT: All right, sustained.

14 MR. JACOBS: 25-year-old kid. Starts seeing
15 Dr. Szyman at age 16. Gets on Dr. Szyman's road of escalating
16 opioids. And where does she end? With a heroin addiction.
17 With rehab. [Indiscernible] criminal charges.

18 So those are risks that have to be taken into account.
19 Dr. Szyman has to take those into account if he's going to
20 follow professional -- if he's going to do things within his
21 professional practice.

22 I mean, sure, if he just wants to hand out drugs. But
23 he's abandoning his job as a professional, as a physician. And
24 when he does that he loses his exemption. He can't hand out
25 drugs unless he follows professional practice, because otherwise

1 he's just a drug dealer. Otherwise he's just hooking people on
2 narcotics. Which is what he did. And he's illegally
3 distributing drugs.

4 And as part of the practice of medicine, like we all
5 know, we got to monitor because frankly they're not always the
6 best guessers at the beginning. You know, maybe I say here's my
7 problem, here's where I want to get to, here's how I think I'm
8 going to get there. But, you know, you have to keep track. You
9 have to monitor it. How are people doing. What are the risks.
10 Are the risks showing up that I should be aware of. Am I paying
11 attention to those. And if so, am I modifying.

12 I have to keep track. I have to make sure because I'm
13 the professional. I'm the adult in the room. You know, it's
14 controlled substances. It's what we talked about. You know,
15 it's -- the patient doesn't get to decide. These aren't just
16 something you pick up in the pharmacy.

17 And there's a reason for that. Because lay people
18 would choose incorrectly. Lay people without professional
19 training wouldn't appreciate that these drugs have all these
20 side effects that, you know, if left to our own devices we might
21 pick what seems like the easiest, the cheapest solution. Not
22 realizing what's going to happen. It's that we're going to get
23 dependent, have all these side effects, risk death.

24 And so we need the professional, the adult in the room
25 to stand between us and some of these drugs. That's why they're

1 controlled.

2 And so, Dr. Szyman, if he was going to legitimately
3 hand out narcotics, has to follow these steps. Otherwise he's
4 abandoning his role and he loses any protection he has as a
5 physician to hand out narcotics.

6 As we say, to support a diagnostic and risk
7 assessment, Dr. King told you -- and, you know, again, many of
8 these things are common sense -- you know, you have to do a
9 clinical history. Look at medical records. See what has worked
10 in the past, what has not worked in the past.

11 You know, if narcotics have not worked in the past, I
12 think it's -- someone said it's insanity to repeat the same
13 thing and expect a different result. Right? And so we have to
14 have some attention to what worked in the past, what has worked
15 with a particular patient in the past. Look at their medical
16 records. You have to examine the patient. You know, you're the
17 professional. You can't just guess. You can't just say, well,
18 and they say they've got pain, how about narcotics?

19 [Indiscernible] there are tests to help. Again,
20 you're a professional. Your job as a professional -- if you're
21 going to be able to hand out these narcotics, these addictive,
22 dangerous, life-threatening narcotics, as we've seen, you have
23 to do an assessment that looks at prior records, looks at the
24 patient as they are now, use any appropriate tests, whether it's
25 x-rays, MRIs, other types of imaging.

1 Then you have to take into account the patient,
2 whether they have what are called comorbidities. You know what
3 that is, right? It's that sometimes some of us have things that
4 would make the treatment harmful to me.

5 But in this case -- you know, the example is, whether
6 it's diabetes, obesity, people had -- were smokers, people had
7 lung problems. There are physical ailments such that if you
8 give that person narcotics, if you give someone who already has
9 breathing problems a drug that reduces their breathing rate, you
10 know, it's a -- that's what -- that's one of the effects of
11 these narcotics, it's reducing your breathing rate. And so when
12 you go to sleep and you already have problems breathing, maybe
13 you have sleep problems, you're already breathing very shallow.
14 And when you throw on top of that narcotics, you reduce the
15 breathing so low that the person dies. So those are physical
16 comorbidities.

17 Then there's mental health comorbidities that you have
18 to take into account. And we saw it. We saw a number of
19 patients come in here and talk about bipolar, depression,
20 anxiety. These mental health issues. And as Dr. King said and
21 I think Dr. Szyman acknowledged, yes, you give someone
22 narcotics, it's going to make those conditions worse.

23 And so you have to that that into account because,
24 again, when they're going down a path you have to look at what
25 are the countervailing risks. You can't just give people

1 narcotics and say, well, and because obviously at some point
2 narcotics will make your pain go away because you'll be dead.

3 But that's not an appropriate trade-off. And if
4 Dr. Szyman isn't taking that into account he's not practicing as
5 a physician. He's not doing his job. He doesn't deserve the
6 protection that the law gives a physician because he's not doing
7 his job. He's just handing out narcotics and he's putting
8 people at risk, risks he's well aware of. He's well aware of it
9 because he's trained in it. He's well aware because he's seen
10 it. He's seen all these risks.

11 And he has to take that into account. He's not free
12 to just hand out narcotics and ignore the side effects and say,
13 look, I told him it could happen. That's not practicing
14 medicine, that's drug dealing.

15 [Indiscernible] I say the treatment planning, it has
16 to be defined to address the problem. You have to look at
17 alternatives to narcotics because, as we've heard, narcotics do
18 not cure what's causing the pain. It's just a Band-Aid. It
19 just masks it.

20 So you have to look at those. You can't just -- the
21 first thing you do cannot be to give people narcotics. You have
22 to look at other alternatives. Because there are clear side
23 effects to narcotics we discussed. Maybe there's physical
24 therapy. Maybe some people need surgery. And if they're not
25 willing to take surgery you have to say, I can't give you

1 narcotics. The appropriate response is this and this. And if
2 you're not willing to do that, I can't just give you narcotics.
3 It's not going to cure anything.

4 And, you know, we've seen what actually happens. In
5 Dr. Szyman's world -- it isn't just that you give them
6 narcotics, you give them an ever increasing spiral, a larger
7 amounts of narcotics. Amounts that were astounding. By
8 Dr. Szyman's own testimony he's well aware, you give someone
9 more than 10 milligrams of morphine or an equivalent of that a
10 day, the risks to overdose go up 10 times to an individual.

11 The patients here got hundreds, hundreds of morphine
12 doses a day. And, again, so well in excess of the red light
13 that Dr. King described. But more than, that some of them got
14 thousands, thousands of doses of morphine.

15 And Ms. Buretta, 11,000 doses of morphine a day, every
16 day, for months, for years. Treated people for years. And
17 that's how you know it's not working also, right? You know, you
18 say to yourself it may be that Dr. Szyman didn't recruit these
19 patients into the hospital, but he sure got them hooked. He
20 sure got them in there to come to see him to get narcotics. To
21 come to repeatedly see him. For years.

22 I mean these are people with pain. And we know it's
23 not working because they keep seeing him. They're just in there
24 in the upper escalating spiral. Dr. Szyman was driving them up
25 this hill. Driving them up this cliff. Right? It kept

1 happening. He acknowledged himself. That's what's going to
2 happen. The body's going to develop tolerance so I gotta give
3 them more and more and more. And it drove them higher and
4 higher up that cliff.

5 And we saw what happened to some of those patients,
6 right? They fell off in a variety of different ways. Some fell
7 off and ended up through withdrawal. As Ms. Walt said, hell.
8 As Mr. Conway said, I think in tears, going through three --
9 three full weeks of inpatient hell going through withdrawal from
10 the drugs that Dr. Szyman had put him on on his upward spiral
11 road of escalating opioids.

12 Mr. Orth the same thing. Others ended up in jail,
13 right? Because they were given all these narcotics. You know,
14 addiction, psychological problems that they had, they ended up
15 selling the drugs. They ended up in jail. Probably also in
16 withdrawal. Some in rehab. Or they ended up dead like
17 Ms. Buretta.

18 Dr. King explained to you that a physician doing his
19 job practicing as a doctor, not as a vending machine, has to
20 also worry about combining a variety of medications, you know,
21 this compounding effect. That is, you give someone sedatives, I
22 think he called them benzodiazepines, and you give them
23 narcotics, then you reduce their breathing with one and reduce
24 it with the other till it becomes potentially fatal.

25 Or, you do the exact opposite then that we saw with

1 some of the patients, right? What did Dr. Szyman do? He gave
2 patients not only narcotics to bring them down, he gave them
3 speed or amphetamines or Adderall to bring them up.

4 You know, it's sort of like -- you know, it kind of
5 binds -- if someone [Indiscernible] sleep so I give him more
6 narcotics. But as Dr. King explained, what's the effect of
7 that? You get this roller coaster. You can just picture it.
8 The heart's racing, the heart's racing down, then the heart's
9 racing, the heart's going down, the heart's racing -- and then
10 maybe your timing gets out of whack and either the heart
11 explodes off the top end or drops down to the bottom end. So
12 you get, as Dr. King, this prescriptive speedball.

13 And because of all these risks that Dr. Szyman
14 acknowledged -- I mean, these are narcotics. We've seen it. He
15 acknowledged, this opioid crisis going on. These are pills
16 being abused, being sold, causing overdoses, causing deaths.
17 He's well aware of it.

18 You gotta follow up. And it can't just be following
19 up from a path of, hey, I'm watching the show here. You gotta
20 respond to the information. Again, that's what monitoring
21 means. It doesn't mean watching. You know, it's -- A, is the
22 patient improving? Is there -- is what you're doing -- okay,
23 you identify a problem, you got a solution you're trying to get
24 to, you got your treatment plan, hey, let's -- is it working?

25 You've got to monitor it. You have to see is --

1 [Indiscernible] or am I putting the person at risk by just
2 giving them narcotics for no reason? Am I just feeding the
3 narcotics?

4 And again, remember, Dr. Szyman knows this. He's not
5 just feeding them narcotics, he's feeding them more and more and
6 more. And it happened in every one of these cases. You saw it
7 happen. Until either the person was arrested, going through
8 withdrawal, or dead. You saw these large quantities of
9 narcotics.

10 You have to monitor it. If you're not getting any
11 better, you ought to find something else to do. It's not
12 working. You can't just keeping handing out narcotics. You're
13 not being a doctor. He knows it. He told us he knew it.

14 You have to look at things that say the patient's
15 abusing their meds. Because it's a known problem with these
16 narcotics, right? He -- and Dr. Szyman acknowledged, Dr. King
17 explained it. The patients, you know, they're calling in. They
18 got early refills. All right, and my dog ate my medicine. It
19 fell down the drain. I'm going out of town, I'm going to need
20 it sooner.

21 You know, things that someone being a doctor would
22 immediately say this is drug-seeking behavior. This happens. I
23 know this happens in this area. I've seen it happen with my own
24 patients. I've read about it. I know about it in the
25 community. You can't ignore it and be a doctor.

1 You do urine drug screens. And you say, A, are they
2 taking other drugs to say this person's got some addiction
3 problems? And we've got drug screens with heroin.

4 And also, are they taking the drugs I'm giving them?
5 So you see people like Mr. Peterson. You know, he's asking for
6 more drugs, but it's not in his urine. What does that tell you?
7 It tells you he's not taking them. He's selling them. He's
8 abusing them.

9 Those are things that a doctor doing his job giving
10 out narcotics for a legitimate purpose has to pay attention to
11 that. And so, there has to -- not only paying attention, there
12 has to be response. There has to be, you know, some -- you
13 know, what do you do when you find out the person's abusing
14 their drugs? You can't just keep giving them more. You can't
15 keep them on the road of ever-escalating narcotics.

16 And remember that. I don't know what the patients
17 knew when they first came to see Dr. Szyman. Got this opioid
18 contract and said, hey, you know there's some risks? There's
19 some addiction, there's some withdrawal, there's some
20 constipation, there's some problems. You know, okay. He says,
21 okay, conceptually I guess I get the idea.

22 But I know Dr. Szyman knew exactly what they were in
23 for. He knew what he was -- the road he was putting him on. He
24 put a bunch of people on. He put all these people on it. He
25 knew where it was going. He definitely knew what was going to

1 happen to them. He knew he was putting them on the
2 ever-increasing cycle. He was driving them up the cliff. He
3 knew that. Until they got to some ceiling. I think he said
4 there might be some ceiling.

5 I can't tell, is he just experimenting with them? Is
6 he just saying how high can I go? What's the ceiling? Well, we
7 know that it's somewhere around 11,000 because that's as high as
8 these patients got to and Ms. Buretta died.

9 But he knows that. Now, he can sit there and say,
10 well, they assume the risks. Well, there's a certain amount of
11 that. Caveat emptor, you know. But he's the professional.
12 He's the train -- he's the person who's the gatekeeper between
13 you -- patients and then narcotics. He knows all that. And he
14 knows where they're going. And he can say, you know, you have
15 these risks. Well, he could say, well, you know, actually, let
16 me tell you what the risks actually are. In nine years you're
17 going to be taking 11,000 doses of morphine. I know it because
18 I've seen it happen and I've done it. I've got people and I've
19 got patients that'll tell you about it. Or you're going to be
20 addicted, maybe go through withdrawal. You know, you might find
21 yourself on the street selling the stuff because I got patients
22 doing that too, being arrested and going to jail. He knows
23 that.

24 Now, again, in this case there are 19 counts. And the
25 counts break down into two categories. The first nine, which

1 I'll discuss at the end, are those transactions that two
2 undercovers officers, Special Agent Greg Connor and a deputy
3 sheriff -- I think she's a deputy sheriff, a patrol officer for
4 a sheriff's office -- posing as patients. And we'll talk about.
5 Those are the first nine counts. Those are the first five and
6 the five visits by Greg Connor posing as Richard Russo.

7 Counts 6, 7, 8 and 9, the next four, are prescriptions
8 Dr. Szyman gave to Kelsey Knaup posing as Anna Kingston.

9 Then 10 through 19 are individual counts based on
10 individual patients. And in the original indictment -- I'm not
11 sure if the court's going to give you the indictment, but the
12 original indictment just identified those people by a letter.
13 It said "Patient A" to protect their confidentiality because the
14 indictment's a public document. And I think we prepared a copy
15 of the indictment that actually has the person's name in it.
16 And I think if you looked at the verdict the court's inserted
17 that patient's name in there for each of the counts because,
18 again, I recognize it would be confusing, but was necessary,
19 initially charge him.

20 So patient A is count 10. First of the individual
21 patients, Marilyn Valdez. She was a patient the shortest period
22 of time because she got arrested and ended up in jail for
23 selling the drugs Dr. Szyman was giving her. And in 20 months,
24 in less than two years, Dr. Szyman increased the amount of
25 morphine, the amount of narcotics he was giving her, from 290 to

1 1,200. She was kind of on the fast road up the spiral.

2 And as indicated, she indicated -- she acknowledged
3 she was selling those prescription drugs she got from
4 Dr. Szyman. And she sold some to an undercover officer and that
5 ended up her in trouble.

6 The specific count with respect to Ms. Valdez is one
7 of the latter prescriptions Dr. Szyman gave her. It was on May
8 4th of 2012. And Szyman -- Dr. Szyman gave her prescriptions.
9 Now, not just one, this is a bunch of prescriptions on a single
10 day. This is what he gives her.

11 Gives her a prescription for 600 -- these are
12 multi-prescriptions -- 600 Oxycodone 30s. Everybody loves
13 those.

14 480 of the combination of oxycodone and acetaminophen.
15 Which is I think aspirin. In the ratio of 10 milligrams of
16 oxycodone and 325 milligrams of aspirin.

17 He gave her [Indiscernible] dose -- I guess it's 1,080
18 roughly for the month. Gave her 180 OxyContin 20 milligrams.
19 120 40-milligram OxyContin. And another 180 OxyContin 80s.
20 That's one month's prescription that he gave to Ms. Valdez.

21 And then we see Ms. Valdez came to Dr. Szyman. A
22 referral from the state court system. I think we saw some of
23 those records. She just -- she was prosecuted for drug dealing
24 marijuana. She was selling marijuana. She had some knee
25 replacement. But she had a normal physical examination. She

1 had done -- this was Dr. King's assessment of her. She had done
2 a normal physical examination. That's what the records
3 reflected. Did 20 months of treatment without any improvement.
4 And as much -- her max MEQ says here 1140. And again, so during
5 that treatment, again, less than two years, goes from getting
6 240 MEQ to 1,140.

7 And Dr. Szyman says and we could tell these drugs
8 aren't being given for a legitimate medical purpose just looking
9 at her patient file. You can see compliance issues. She's
10 early out. She's got early refills. She's got lost meds.

11 You have to suspect, what's going on there? You know.
12 She's got potential abuse or she's diverting. In addition to
13 causing her weight. As I mentioned, these are comorbidities.
14 You give someone like this who's got weight issues these kind of
15 narcotics, their body is going to risk significant overdose,
16 significant death. Significant overdose or death.

17 And in there this is just a note reflecting -- and
18 it's in Dr. Szyman's file. Yes. So, again, 2012. So we go
19 back as far as 2012. This is a patient claiming, oh, no, I
20 needed these. She gets a message, she's selling the
21 prescriptions.

22 And that's important again because it shows Dr. Szyman
23 knows his patients will lie to him. They crave these. And he
24 knows philosophically, he's told us that, these are addictive.
25 People crave them. People are selling them. People are

1 diverting them.

2 But here's one of his patients right here. He raced
3 up to the morphine equivalency and she was out there selling.
4 Yes, she lied to him. This is a known risk that a
5 professional -- that a doctor acting as a doctor would know and
6 would have to take into account. It can't be, you know, I
7 trusted them, she said she didn't.

8 You go to Patient B. Excuse Me. That's Tanya Pivonka
9 Dewane. She testified here, you may recall. That's Count 11.
10 She saw Szyman from 2010 to 2014. Again, look at the length of
11 time. Again, he's giving them the Band-Aid of narcotics for
12 years. Getting her hooked. Getting her coming in. Just a
13 steady stream of patients coming into his medical clinic.

14 Increases her morphine equivalency doses from 780 to
15 more than 2,500. And, again, she told us, she was selling the
16 drugs. I think she said -- testified she made \$10,000 a month
17 selling the drugs Dr. Szyman was giving her.

18 And there were numerous inconsistencies in her urine
19 drug screens that Dr. Szyman, if he was practicing as a
20 physician, would have recognized. You know, he's seen it happen
21 before with Ms. Valdez, but he's still pouring out narcotics to
22 Ms. Pivonka-Dewane.

23 The specific charge, Count 11, is based on a
24 prescription Dr. Szyman gave Ms. Pivonka-Dewane on October 8th
25 of 2013. And at that point -- and this is -- it's just one

1 month, one set of prescriptions, gave her four prescriptions for
2 420 Oxy-30s. All of those contained the controlled substance
3 oxycodone.

4 What does Dr. Szyman -- Dr. King tell us? He goes
5 through that patient file. And he goes, this is not a
6 legitimate practice of medicine. This is not -- this is not
7 within professional practice. Dr. Szyman is not acting as a
8 doctor. He has abandoned any protection he thinks he has for
9 handing out drugs. It's six years of treatment without
10 improvement.

11 For max morphine, this is a daily amount of morphine,
12 2,540. And she has all these mental health comorbidities.
13 She's got admissions throughout -- you know, Dr. King indicated
14 -- throughout there. And I think she said it herself, the
15 inpatient treatment for various mental health disorders.

16 And throughout then the urine screens, which they find
17 heroin, but, again, Dr. Szyman just continues to give her
18 narcotics.

19 And we find interferon, which means I think Dr. King
20 testified sometimes people put stuff in their urine so you can't
21 detect what they are taking. Again, that's a red flag. A
22 physician doing his or her job acting as a legitimate physician
23 would know that's a sign this person's abusing, perhaps
24 diverting their narcotics.

25 But Dr. Szyman also got explicit warnings. You know,

1 there was -- this is a note -- and this is two years before he
2 quit bringing her I guess since I think it was the 2014 --
3 received a call from Sheboygan Memorial Behavioral Health
4 Unit --

5 Oh, I'm sorry, wrong one.

6 Patient is in inpatient there. They are questioning
7 her pain med dosage. She is currently prescribed oxycodone
8 30-milligram 10 tabs every four hours. They say her pain seems
9 to be controlled with much less. Apparently she told them she
10 does not always take this many. "Do you have any idea she's
11 possibly taking much less than prescribed?"

12 So there. There's a third party -- this is a third
13 party going from a -- one of her inpatient stays because there
14 was psychological issues, the behavioral health issues, and
15 they're saying she doesn't need these drugs. She says she
16 doesn't take all these drugs.

17 Dr. Szyman is being told that. Doesn't care. Just
18 keeps giving her narcotics. Increasing -- keeps having her come
19 back as a patient. Keep her on the upward spiral.

20 Then they get a call from Barb at a Manitowoc
21 pharmacy. And as in here, it indicates: "Pharmacist also
22 expressed some concern about this patient. She presents to the
23 pharmacy, has large rolls of cash, and is always with a
24 different young man."

25 And so, again, these are red flags. You know, imagine

1 what it takes before a pharmacy calls a doctor and go, ah, Doc,
2 you know, this person, I think you ought to be suspicious
3 they're diverting. But what does Dr. Szyman do? Well, he
4 doesn't do his job. He doesn't act as a doctor. He just keeps
5 Ms. Pivonka-Dewane on the upper spiral of more narcotics. He's
6 actually just feeding her business. I mean he's allowing her to
7 make \$10,000 a month. And that's not the practice of medicine.
8 That is not a legitimate medical purpose.

9 Patient C, Dabien Peterson. We saw Mr. Peterson
10 yesterday. He was a patient with Dr. Szyman from 2007 through
11 2015. The specific prescription this is based on, back on
12 January 8th of 2014 -- I guess towards the end of Dr. Szyman's
13 dealing with Mr. Peterson -- he gave him prescriptions with 540
14 oxycodone 30-milligram, 240 40-milligram tablets, and 1,800
15 80-milligram tablets of OxyContin. Just incredible quantities.
16 Those are all drugs containing the controlled substance
17 oxycodone. That's the basis of Count 12.

18 And you look at Dr. King's assessment of Dabien
19 Peterson. He had a spinal cord injury. There's no doubt these
20 people have some medical issues. But the question isn't whether
21 they have medical issues, the question is whether -- how
22 Dr. Szyman treated them. Was that a legitimate response to
23 those medical issues, or was he just handing out narcotics?
24 It's seven years of treatment without improvement. And I mean
25 without improvement.

1 As described by Mr. Peterson, Dabien himself, and
2 Dr. Szyman, when Mr. Peterson started with Dr. Szyman -- this is
3 before he got drugs -- he said his pain level was 4 to 5. And
4 he was on -- and I don't know what it was, 5 -- 5 milligrams of
5 some type of pain reliever. That surgeon who dealt with him
6 said, given this guy's family history of alcoholism, he's not
7 recommending opioids because that doctor recognizes that's a
8 problem. You know, that combination, as Dr. King described,
9 that's a dangerous combination to give someone with a family
10 history and even Mr. Peterson's own personal history of alcohol
11 abuse problems, giving them narcotics is not recommended.

12 But Dr. Szyman gave Mr. Peterson narcotics increasing
13 to 2,910 morphine dosage units a day. And his pain -- at the
14 end of all that, at the end of those seven years of treatment,
15 his pain level, he says it's 4 to 5 to start, at the end it was
16 5. It potentially slightly went up.

17 But what did he get for that keeping the pain at the
18 same level? He got massive amounts of narcotics into his body.
19 Again, there are indications in the file, early refills, early
20 outs, claiming stolen meds, past history of addiction, and
21 inconsistent urine drug screens.

22 And we saw Mr. Peterson testify here. Would it be
23 understandable why Mr. Peterson would have a certain amount of
24 loyalty, affinity for Dr. Szyman, someone who gave him large
25 amounts of narcotics for long periods of time? It's not hard to

1 imagine why. It's not for a legitimate medical reason. But
2 would someone have an affinity for someone who's been their drug
3 supplier for seven years, constantly giving them all the
4 narcotics they want?

5 And yet Dr. Szyman had indications in his own file
6 that there was a problem with his treatment. Not just the large
7 quantities without any improvement. You know, Mr. Peterson
8 comes in here and he says oh, my life was great. But you look
9 at the medical file, you know, I think we pointed it out to
10 Mr. Peterson, he says now, oh, it's going great, I could cut the
11 lawn, I could build a garden.

12 That's not what his medical file reflects at all.
13 He's complaining of greater levels of pain throughout the time
14 Dr. Szyman is treating him. At various times, again starting at
15 a pain level of 4 to 5, there were times when seeing Dr. Szyman
16 getting all these narcotics he says my pain level is 7 to 8.
17 And yet the pain level's going up. And why? Because he wants
18 more of the narcotics. Either he's abusing them or he's
19 diverting them.

20 And at least there is some indication in the file.
21 The clinic gets a call. Again. There's some suggestion they
22 got a lot of calls like this. And perhaps the suggestion is,
23 oh, everybody gets a lot of calls that patients are diverting
24 drugs. Or maybe what they're saying is they got a lot of calls
25 because Dr. Szyman was pushing a lot of narcotics out on the

1 street. So, yes, they're getting a lot of calls because it's
2 happening.

3 So they receive a call from a female who wishes to
4 remain anonymous. She reports that this patient, again, it's
5 Mr. Peterson, and his wife, are selling his narcotic medication.
6 He's offering his meds to her son to sell. She has witnessed
7 this. She approached this patient, calls the police and reports
8 his meds were stolen. They were not stolen, they were sold.

9 And, again, that's detail as for some. But it also
10 talks about how there were reports of stolen. And that's
11 correct. That's the kind of detail that rings true. You know,
12 that's an anonymous caller, but -- but knows that this person is
13 claiming they're stolen, which is independently factually
14 correct, as Mr. Peterson said.

15 Again, those are red flags that Dr. Szyman would know
16 this person is abusing or diverting their narcotics. This is a
17 common experience. He's seen it with his prior patients. He's
18 aware of it because he's aware of the opioid crisis at this
19 point. He's on these huge doses of narcotics and he knows all
20 these risks are out there, but he just continues to supply
21 Mr. Peterson with more and more.

22 Count 13 is Patient D. That's Ramona Wolf. You may
23 call Ms. Wolf. She was a patient from 2011 to 2015. She
24 also -- she sold her prescription drugs.

25 The specific charge was based on a May 15, 2014

1 distribution. I'm sorry, a -- an alleged distribution based on
2 Dr. Szyman giving Ms. Wolf the following prescriptions. He gave
3 her prescriptions for 240 morphine 100-milligram tablets, and
4 another 240 morphine sulfate 30-milligram tablets. And again,
5 that's -- those contain obviously the controlled substance
6 morphine.

7 Dr. King looks at Ms. Wolf's file and says -- again,
8 this is -- four years this went on for. Four years of spiraling
9 narcotics without improvement. The file doesn't reflect a
10 physical exam. It reflects that in that four-year period of
11 time Dr. Szyman put Ms. Wolf on the Dr. Szyman road. Goes from
12 a morphine equivalency of 90 to 740.

13 There were a bunch of opioid risk factors dealing with
14 her past history. There are third-party warnings. And there's
15 inconsistent urine drug screens.

16 And in particular -- again, picture this. The clinic.
17 Received call from Manitowoc Metro Drug Unit detective that they
18 received information from another detective through a
19 confidential informant that patient is selling her Morphine ER
20 100-milligram -- hundred-milligram [Indiscernible].

21 Now, we know that's true. She's told us that's true.
22 And the police called the clinic to let Dr. Szyman know. "Hey,
23 this patient's selling."

24 They were reporting that she sells them for \$4,000 a
25 month. Again, tons of signals. He's got them before with

1 Ms. Valdez. He's gotten warnings of other third parties. But
2 this is the law enforcement. It's not just even an anonymous
3 call saying, hey, she's selling. But, Dr. Szyman writes a note:
4 "Several weeks ago we received a call informing us that Ramona
5 was selling her medication. I have no confirmation of this from
6 any indisputable source."

7 So, as I understand it, here's how Dr. Szyman treats
8 law enforcement. I need an indisputable source. My patients,
9 hey, you're telling me you need it, you're telling me you're not
10 distributing it, I'm all in. More narcotics.

11 And so, again, he's not doing his job. Dr. King has
12 told you to do -- to be a physician, to actually practice
13 medicine, to actually give people drugs for a legitimate medical
14 purpose, you have to pay attention to this. When law
15 enforcement calls and tells you your patient is selling, and
16 you've seen it before with other patients, you cannot ignore it.
17 You abandon your role as a doctor. You're just handing out
18 narcotics.

19 Sean Conway. Patient E. Base of Count 14. Was a
20 patient from 2008 to 2015. The specific charge for Mr. Conway
21 is June 23 of 2014.

22 On that date, Dr. Szyman gave Mr. Conway the following
23 prescriptions: 30 fentanyl patches. 360 morphine sulfate
24 60-milligram. 900 morphine sulfate 100-milligram. A thousand
25 Oxy-15s. 720 30-milligram. 450 Oxy-60 milligrams. 450

1 80 milligrams. That's a month's supply. Those are all
2 containing controlled substances of fentanyl, morphine and
3 oxycodone.

4 Again, Dr. King looks at Mr. Conway, says that's six
5 years of treatment. Got him up to 7,460 morphine doses a day.
6 That's 94 pills a day.

7 There's indications of early abuse -- early refills,
8 early out. And there's no improvement until Mr. Conway
9 himself -- you remember Mr. Conway, he drags himself into rehab.
10 He's gotta get off all this stuff. He goes three, four weeks
11 getting himself off all these drugs that Dr. Szyman, he knew and
12 he knows because he's doing it, he's writing the prescriptions
13 and he's done it before. Right? He's done it to all these
14 other patients.

15 And in the file though you see things like notes in
16 the middle of this from a pharmacy. Mr. Szyman -- I'm sorry,
17 Mr. Conway apparently goes to a pharmacy. The pharmacy tells
18 the clinic she does not want to fill med this early. She fears
19 her license.

20 Imagine that, a pharmacist telling a doctor, I'm
21 afraid about losing my license, especially if something should
22 happen to this patient. She is concerned that he's abusing his
23 meds. Okay?

24 Again, that's a red flag. That's some third party.
25 Now, I admit it's not as reliable as law enforcement. But a

1 pharmacy -- a pharmacist calls in and says I'm afraid about
2 losing my license because of the quantities, I think this guy's
3 abusing it. And he was. He told you he was. Look at the large
4 quantities he was taking and how he ended up in rehab.

5 A layperson, a nonphysician, a pharmacist at least
6 recognized what the problem was and told Dr. Szyman. He didn't
7 care. They were on his road.

8 May 9th, 2013. Received a call from someone at
9 another pharmacy in [Indiscernible]. All pharmacists there have
10 concerns about this patient. He comes in, they cannot -- they
11 cannot -- now, this is not at the beginning. You may recall
12 Mr. Conway. From early on he had a problem. [Indiscernible]
13 early on he had withdrawals.

14 So that should have been a clue to Dr. Szyman early
15 on, this guy's in trouble. I'm -- I've hardly started him on
16 the path I'm going to send him down and already he's got
17 withdrawal problems.

18 And at the beginning Dr. Szyman knows this guy's in
19 trouble with small quantities. I think even -- [Indiscernible]
20 I think he's testified about his wife even. 60 days she knows
21 she's got withdrawal. Mr. Conway had to go into the hospital
22 because he was having such problems.

23 So Dr. Szyman [Indiscernible] at the beginning. Years
24 later pharmacy calls. Who is this? They cannot understand what
25 he is saying. He falls asleep while waiting for his meds to be

1 filled. He walks around like he is obtunded. Now, again, a
2 word I did not know, but I think Dr. King said he's a zombie.

3 They are at the point where they no longer want to
4 fill his prescriptions. And they do not want to be liable for
5 what may happen with meds and doses he is on. Here's a
6 pharmacy. Imagine what it takes for a pharmacy to call up a
7 clinic and challenge a doctor and say we're not filling this
8 guy's prescription. He's in a zombie state. We can't
9 understand what he's saying.

10 And how does Dr. Szyman respond to this? Does he
11 practice medicine? Does he legitimately prescribe more drugs?
12 No, he just gives him more narcotics. Someone who is a zombie
13 who falls asleep who can't be understood. Because he's got one
14 road. He's got -- it's a one-way road, it goes up and up and
15 up. And so he just keeps feeding Mr. Conway more narcotics.

16 That's not practicing medicine. He has abandoned any
17 protection he thinks he has. He knows it. He just doesn't
18 care.

19 Patient F, Heidi Buretta. Again, I guess testing for
20 what the ceiling is, Heidi Buretta, patient for Dr. Szyman, 2004
21 to 2014. December 5th, 2014, died of an overdose of mixed drug
22 toxicity.

23 And I think Dr. Szyman said he knows her toxicity.
24 She had 4,000 units of morphine in her system when the
25 therapeutic dose is -- I think he said less than a thousand. So

1 it's morphine. And where is she getting all this morphine?

2 Well, three weeks before she died, on November 13,
3 2014, Dr. Szyman provided Ms. Buretta with the following
4 prescriptions: 1200 morphine 200-milligram tablets.

5 That's -- what is that? That's 40 a day. 40
6 200-milligram tablets of morphine. Wow.

7 A thousand eighty morphine sulfate tablets
8 30-milligram. I can't quickly do the math. 36 of those. So
9 that's 40 plus 36. 30-milligram tablets.

10 60 Adderall. Now, this is good. The Adderall. Cause
11 you could imagine, that's gotta be [Indiscernible] so we gotta
12 give her some amphetamines. We gotta give her the Adderall.

13 Again, there's the speedball. Gives her 20
14 Adderalls -- I'm sorry, 60 Adderalls, 20-milligram tablet. So
15 there's two of those. Two 20-milligram tablets of Adderall a
16 day. And 270 -- I guess that's nine more of the hydrocodone,
17 10-milligram with some aspirin.

18 That's every day. I couldn't in my head. Let's see,
19 what is that, 40, 36, two more, 38, and 9 -- 47? I don't know.
20 I lost track now. 40, 36, 76, 78 -- 87 tablets a day. Could
21 you do it? He's giving it to her. Those are all drugs -- all
22 of those contain controlled substances, morphine, amphetamine,
23 hydrocodone. And she's dead. Just massive amounts.

24 Now, Dr. King was not told that. Didn't want to
25 prejudice him. Didn't want to bias him and say, oh, she died,

1 you know, and tell you the end of the story. Gave him solely
2 her patient file which apparently doesn't indicate in there that
3 she died, Ms. Buretta. But still Dr. King says this is not a
4 doctor practicing medicine.

5 This is 10 years of treatment with no improvement.
6 Pain levels are the same. You know, it's, again, apparently as
7 documented in this patient file, no improvement. I guess at
8 some point the pills were up to 124 pills per day. Now, some of
9 those could have been non-narcotics. This would have only been
10 narcotics she got on that prescription.

11 And as I say, on a daily basis she's getting 11,570
12 doses of morphine. Again, Dr. Szyman knows, you give someone
13 more than a hundred you're increasing the chance of overdose by
14 10 times. 11,000, that's a hundred times that. And he's still
15 prescribing it.

16 Dr. King testified end-of-life cancer patients with
17 terminal cancer, in the last few weeks or months of their life,
18 get maybe hundreds of morphine doses to deal with their pain.
19 This woman got 11,000.

20 And, as I described, the opioid/amphetamine speedball,
21 the ups, the downs, the racing, the high, the low. And what do
22 we see? What do they find when they find her dead? They find
23 these were all prescriptions found at her house. That's only a
24 portion of them I think Mr. Green testified.

25 But there's a summary in there that says -- because,

1 again, he gave her so much, again, she ultimately dies, but she
2 still just had tons -- I think there were just thousands,
3 thousands of pills in these bottles, unopened pills of morphine,
4 that Dr. Szyman, he's not doing his job. He's not practicing
5 medicine. He's just handing out narcotics. And there's a big
6 stash here.

7 This is not the practice of medicine. This is not
8 professional practice. This is just riding the Dr. Szyman
9 opioid train to the top of the cliff.

10 Patient G is the base of Count 6, Deborah Ramirez.
11 You recall Ms. Ramirez. She was a patient of Dr. Szyman for at
12 least 2005 through 2015. And again, another patient, lo and
13 behold, selling the prescriptions Dr. Szyman -- the prescription
14 drugs, the narcotics he's prescribing to law enforcement, gets
15 herself in trouble.

16 The specific prescription, the base of Count 16, is a
17 January 13, 2015 prescription. And this is a prescription --
18 this is what Dr. Szyman gives her for the month. Gives her 120
19 morphine 200-milligram tablets, 120 100-milligram tablets, 180
20 15-milligram tablets, 480 hydrocodone/acetaminophen tablets, and
21 120 30-milligram tablets that everybody wants. All those
22 contained controlled substances, morphine, hydrocodone and
23 oxycodone.

24 Dr. King reviewed that. Says there's nine years of
25 treatment. And again, but there is no indication of

1 improvement. There's just narcotics. Narcotics to the point
2 where after that period of time Ms. Ramirez was getting 2,880
3 morphine doses a day. And she's got multiple prescriptions of
4 opioids of different strengths. And then she's got urinalysis
5 that shows the presence of heroin and the absence of prescribed
6 medication.

7 Now, if someone is in such pain that they need these
8 massive quantities, they are going to have the medicine in their
9 urine, right? Unless they're not using it. I mean it's one
10 thing I think Dr. Szyman said, you know, maybe the undercover,
11 well, if they only use it now and again so maybe it wouldn't be
12 in their urine.

13 Okay. But this is someone who he's giving -- you saw
14 that list of narcotics he was giving her. It was currently in
15 her system. What does that tell any reasonable person let alone
16 any professional who's completely aware of the dangers, the
17 risks of narcotics? What does that tell anyone? She's
18 diverting.

19 You know, [Indiscernible] warned about -- I guess per
20 se warning, not warning -- but what does he do? Again, there's
21 a notice from the jail when she gets picked up. The detective
22 told Sarah, someone on the clinic staff, that the patient's
23 house looks like a pharmacy.

24 Patient told Sarah this morning during her assessment
25 that she has not taken any pain medications since 6:00 a.m.

1 yesterday morning.

2 Stated, patient does not appear to be in withdrawal at
3 this time, but they have her on some detox med if she needs it.

4 Patient is not guarding her eyes from bright lights.
5 Alert and oriented. Pupils reactive. [Indiscernible] what that
6 says.

7 They're not taking narcotics. You know, they're
8 telling Dr. Szyman this.

9 Count 17 is patient agents. Nancy Walt. You may
10 recall we had both Ms. Walt and her husband Terry testify.
11 Again, she was a patient for Dr. Szyman for 2004 to 2015.

12 The specific charge was based on a prescription
13 Dr. Szyman provided Ms. Walt on February 10th of 2015. Again,
14 towards the end of these years of treatment.

15 It's prescriptions with 480 10-milligram methadone
16 tablets, 400 morphine sulfate 10-milligram, 60 Oxy-40s, 180
17 Oxy-60s, and a thousand eighty Oxy-80s.

18 Again, so what did he say that was? 36 Oxy-80s a day.

19 Each one of those Oxy-80s I think Dr. Szyman said that
20 the conversion of oxycodone to morphine is 1.5. So each one of
21 those tablets actually is an MEQ of 120. Each one of them is
22 over the red threshold that increases someone's risks of
23 overdose by 10 times. Each one. And he gave her 36 a day,
24 every day, every month.

25 You know, this wasn't a short-term. This wasn't 60

1 days after some surgery. This was every day. And, again, I
2 asked Dr. Szyman, what's -- when is the end? Right? What's the
3 end on this Szyman opioid road? What is it?

4 Dr. King looked at her file and said, you know,
5 there's more than 11 years of treatment for arthritis without
6 improvement.

7 Again, within the file there are incidents of
8 suspected opioid overdoses and withdrawals. I think Ms. Walt
9 talked about it. She had pill count inconsistencies. And, in
10 fact, in the file Ms. Walt contacted -- or was dealing with the
11 clinic and said she's lying about her use. Not taking them as
12 prescribed.

13 And as mentioned, the morphine equivalency at the max
14 was over -- over 3700. 3,720.

15 And, again, I think Dr. King -- I explained how people
16 on those large levels of narcotics might not fully appreciate or
17 might not fully recall how they were behaving or how these drugs
18 were affecting them. Maybe they were not proud of it, maybe
19 they're not happy about it.

20 But her husband, you saw Terry Walt testify, you can
21 assess his credibility, came in here, and what does he say about
22 his wife? How was she behaving under these massive amounts of
23 narcotics? She was walking around like she was drunk in a
24 zombie state. Very moody.

25 You saw what the narcotics were doing to Ms. Walt.

1 Dr. Szyman, if he was acting as a doctor, would know that. You
2 can't give someone these large amounts of narcotics without
3 having as a consequence these side effects, these -- what is it,
4 umdurated (phonetic)? Obturated? You know that she's -- she's
5 stuffed. She's full of narcotics. She's sleeping hours at a
6 time during the day. But what does Dr. Szyman do? Gives her
7 more narcotics.

8 Patient -- Count 18 is Patient I, a Chad Wenzel.
9 Remember, Mr. Wenzel didn't testify. I think he was a patient
10 of Dr. Szyman's from 2006 to 2015. The specific charge is
11 February 11th of 2015.

12 At that time Dr. Szyman provides Mr. Wenzel with
13 prescriptions for 150 fentanyl patches, various strength, 360
14 8-milligram hydromorphone, 180 20-milligram oxycodone, 360
15 30-milligram oxycodone, and 90 80-milligram tablets. All of
16 those contained controlled substances.

17 Dr. King talked about that file again. That's more
18 than five years of treatment without any improvement. And the
19 file reflected that he already had been treated with heroic
20 doses of methadone. He had a history of substance abuse and
21 there were warnings from the pharmacy, from Mr. Wenzel's mother.
22 These are warnings to Dr. Szyman. His mother, insurance
23 company. He's got urine drug screens that show cocaine. He's
24 got comorbitities that show mental health issues.

25 And as indicated, again, at his peak with Dr. Szyman

1 he was at almost 2,900 morphine doses a day, every day. And
2 then you look in the file and you see in the middle of that
3 treatment the clinic gets a call from the patient's mother. She
4 reports that Chad is slowly getting, "eaten up by the drugs.
5 He's addicted." He told her the pain pump is doing nothing for
6 him. He told her he would buy drugs off the street. She feels
7 he's doing this. He totally does not care about anything
8 anymore. The mother is very upset, feels she needs to go for
9 counseling due to her son's issues. She's worried about his
10 welfare as well as the two grandsons that are living with Chad.

11 Again, all these warnings. Third parties. You know,
12 whether it's hospitals calling because the patient doesn't
13 appear to be using their drugs. Pharmacies calling because the
14 patient's coming in and can't be understood. Police calling
15 because this person is selling their drugs. Family members
16 calling because this person is getting eaten up by the drugs.
17 And how does Dr. Szyman respond? He gives out more narcotics.
18 He just continues to give it out.

19 Count 19 is based on Todd Orth. He's referred to as
20 Patient J.

21 Remember, Mr. Orth came in here. I think he injured
22 himself moving something off a truck or something. A neck
23 injury I guess. Saw Dr. Szyman from 2010 to 2015.

24 The specific count is based on a prescription February
25 16th of -- I'm sorry, February 16th. That shouldn't say 1985.

1 February 16th. It should say 2015, not 1985. February 16th of
2 2015, Szyman provides Orth with the following prescriptions:
3 480 Oxycodone-15s, 120 Oxy-40s, 240 Oxy-60s. All of which
4 contain a controlled substance, oxycodone.

5 Dr. King says he reviewed that file. Again for four
6 years there is no improvement. The maximum MEQ is 2,400. And
7 Dr. Szyman is giving him or he's being prescribed this speedball
8 because he's got both Adderall and he's got these narcotics.

9 And the patient file reflects early refills, early
10 outs, lost meds. There is urine drug screens reflecting
11 repeated use of marijuana.

12 Again, you can't just keep giving someone narcotics if
13 it's not improving them. There's side effects to be had.
14 There's risks to be had. But in Dr. Szyman's world it's just
15 keep the patient churning, keep them coming in, keep feeding
16 them narcotics. And that's what happens with Todd Orth. This
17 is -- that is not the practice of medicine. That is drug
18 dealing.

19 And then there's Alexandria Krizizke. She's not the
20 basis of a specific charge. This was a -- I think a 16-year-old
21 girl when she first started seeing Dr. Szyman. She had some
22 opioid prescriptions before because of some head surgery. Brain
23 surgery I think she said. But as Dr. Szyman acknowledged, she
24 hadn't had the opioid treatment that Dr. Szyman was going to
25 give her. She hadn't got that ever-escalating spiral of

1 narcotics that Dr. Szyman was going to give her.

2 As Dr. King says, what she got was four years of
3 treatment. And I think the patient records didn't start till
4 she was 18. It may be that the records he was given didn't
5 start till she was an adult. But I think Dr. King said I think
6 he started treating her when she was 16.

7 Four years of treatment without improvement. In the
8 patient file was a September 9, 2013 documented drug-seeking
9 behavior. She got inconsistent urinalysis. I think Dr. Szyman
10 said he thought she was using heroin while he was treating her.
11 But I know she said at some point she turned to heroin. Ended
12 up in that period of time with a MEQ of more than 650.

13 And so you take Miss Krizizke, and what do you have?
14 You have a 16-year-old girl who comes in because of some pain,
15 some headache pain. I think she said she was looking for some
16 short-term pain relief. And what did she get? She got years of
17 narcotics. Years of greater-increasing amounts of narcotics
18 that ultimately, when those got cut off, she ends up
19 substituting heroin for that. She ends up with a heroin
20 addiction. She ends up with arrest records. I think she said
21 -- was it shopping lifting? Maybe some alleged drug selling I
22 think as well.

23 So that's what she got from Dr. Szyman. Again, I know
24 she assumed all those risks because she must have seen all that
25 coming. She must have known that. Well, I think it's unlikely

1 she saw it coming. I think it's fair to say Dr. Szyman, if he'd
2 have cared to pay attention, would have seen it coming, right?
3 It's completely predictable. You've seen it. You've seen case
4 after case after case. These people getting massive amounts and
5 the terrible consequences that happen. Completely predictable
6 to anyone paying attention.

7 Okay. So that's -- you know, that's sort of where the
8 case started. You know, law enforcement had this information.
9 These -- several people selling narcotics, selling prescription
10 drugs.

11 And so what happened next? Well, law enforcement
12 didn't just jump, didn't just say, oh, he must be guilty, these
13 people say they got all their drugs, their prescription drugs
14 from Dr. Szyman, he must be guilty. No. They did a test. And
15 maybe some of you don't like the idea of an undercover case,
16 sending people in to pose as patients. But it's a fair way to
17 see, well, is Dr. Szyman dispensing drugs? Is he handing out
18 narcotics? Or are these patients, are they the problem? Who is
19 the problem here?

20 So it's a test. Let's see. We'll send in some
21 undercover people. They'll pose as patients, strangers. No
22 medical records. They'll say they have some pain intermittently
23 at some time, but I'm feeling fine now. And there's a test.

24 There's some suggestion that, well, they could have
25 been drug seeking because they said they had no pain. Well, if

1 they said they had had pain then Dr. Szyman would say -- I mean
2 if they reported they currently are in some pain and came with
3 medical records, well, he'd say, well, I was just properly
4 treating them.

5 So it's a test. It's a fair test. Let's assess. Is
6 Dr. Szyman practicing medicine or is he handing out drugs?

7 So first Greg Connor, posing as Richard Russo, he goes
8 in five times. And that's the basis, as I say, of Counts 1
9 through 5. You met Mr. Connor. He's a mid 50s DEA agent. I
10 think he's a supervisor now. I think he said he posed as a
11 patient. Said he saw Szyman at five appointments between
12 November of 2013 and September of 2014.

13 He comes in there, complete stranger, right? Bogus
14 name. Made-up date of birth. Bogus address. He doesn't live
15 there. Just made up a background and employment. He comes in
16 with no medical records. Zero. And as he said, he never
17 exhibited nor complained of any pain when seeing Dr. Szyman.
18 Okay?

19 His first appointment is Count 1, November 21, 2013.
20 You'll remember this. He comes in. Now, remember, no medical
21 records. He's got no x-ray. He's got no MRI. Says he's got no
22 job, bogus address, got no insurance, I live in the area. Just
23 looking to get some narcotics. Right?

24 He fills out the form saying "current pain level,
25 zero." Apparently he told the nurse that at its worst, whenever

1 that is, it's a 5.

2 His quality of life, though, said was not affected by
3 the pain. And so he's not claiming he's got any problems with
4 his life. He just says at worst it's a 5. Doesn't affect my
5 life. So there's no functionality problem.

6 "Are you having any pain today?

7 "No.

8 "Rate your pain scale.

9 "0 to 10.

10 "0."

11 So it's a test. Will Dr. Szyman give this person
12 narcotics.

13 What's Szyman's response to no pain, quality of life
14 not affected, no assistance needed? No problem. You want
15 narcotics? Here's 90 Percocets, 5 milligrams. It's a
16 relatively low dose. 22.5 MEQ. Three a day.

17 Okay. Again, no basis, but low-level narcotics, here
18 you go. Again, the drug that Dr. Szyman knows at this point --
19 I mean, God, he's got at this point patients who have been
20 arrested, are going to jail, Ms. Buretta's overdosed and died.
21 Repeatedly patients have been lying to him and selling the
22 pills. He knows that. But he knows -- he knows generally
23 there's this opioid crisis, but and the stranger comes in, makes
24 up a name, makes up a story, here's some narcotics.

25 Gives him this prescription. Here it is. Percocet,

1 5 milligrams. Signs off. There you go.

2 And, you know -- so, Mr. Connor comes back a few
3 months later, February 5th, 2014. It's the basis of Count 2.
4 Again, Richard Russo, again, no pain. 0 on a 1 to 10 scale.
5 And how does Dr. Szyman respond? Again, you've seen the
6 recording. It's here. Is there any physical exam? Dr. Szyman
7 even ask him about his pain levels? He said it was
8 intermittent. Did he inquire at all how often he's been having
9 it? Did he do anything? Did he even -- I think he said he
10 didn't even touch him. Maybe he looked at him. He said maybe I
11 could watch -- [Indiscernible] he didn't watch him walk in the
12 room because I think the special agent was already in the room
13 when Dr. Szyman came in.

14 But none of that. Nothing at all. And what does
15 Dr. Szyman do? He increases the strength of the narcotics
16 because the undercover says, "Well, I don't know, how about
17 tens?"

18 You know, it's like on the street corner. What do you
19 got? Well, I don't know, you got tens?

20 So he says, "I want tens."

21 So what does Dr. Szyman do? He says, "Yeah, I can
22 give you tens."

23 And he goes, "Great."

24 I think -- he says, "How many?"

25 And, you know, [Indiscernible] trying to be a little

1 coy, let's not be too obvious here.

2 "I don't know, two?

3 "Well, I can give you four."

4 Fine. This is a great deal. Twofer. He gives him a
5 four-a-day. And he gives him two prescriptions. Increased
6 dose, more pills and two prescriptions. Zero indications.

7 You know, you look at the medical chart. Look at
8 this. This is the medical chart that Dr. Szyman had when he
9 decided to hand out narcotics to Special Agent Connor/Richard
10 Russo.

11 Functional assessment. Right? But, again, the idea,
12 everyone says, what's the job of a pain management doctor?
13 Improve your functionality, right?

14 Okay. Let's see. Can we improve this functionality?

15 Pain intensity at the moment? No pain.

16 Personal care. Normal routine without any pain.

17 Lifting. Can lift heavy weights without pain.

18 Walking. Able to walk any distance. We ought to test
19 him on that. Any distance?

20 Sits in the chair without pain.

21 Can stand without pain.

22 Sleep is rarely disturbed by pain.

23 Social life, normal. No extra pain.

24 There is absolutely no legitimate reason to hand out
25 narcotics. And based on that review, based on that

1 representation, Dr. Szyman hands out not just narcotics, but a
2 stronger narcotic and more of them.

3 Richard Russo said -- are you having pain today? No.

4 Rate pain scale. Zero.

5 How does Dr. Szyman respond? Boom. You get
6 four-a-day 10 Percs, 10 Percocets. 10-milligram Percocets I
7 should say. Sorry. And it's Dr. Szyman. It's two of those.

8 All right. So couple months later. Well, let's
9 check. You know, was it just a bad day? Maybe he wasn't paying
10 attention. Maybe he was busy.

11 Is this -- you know, is this his practice or is this
12 aberrant behavior? Let's try it a third time.

13 Richard Russo shows up. Again, April 16, 2014 is the
14 basis of Count 3. Again, it's a test. Right? It's a fair
15 test. People were saying they're getting narcotics from
16 Dr. Szyman. Right? Law enforcement has to look into that.
17 They called, they told him, hey, some of your patients are
18 selling narcotics, and he's continued to prescribe them for
19 these people. Right? It's a fair test.

20 Law enforcement, you know, when they called and they
21 said -- I think it was Ms. Wolf -- she's selling her drugs and
22 he continued to prescribe, it's fair that law enforcement say is
23 this guy a doctor? I mean he's got this ability if he's a
24 doctor to hand out narcotics to people. These abusive,
25 addictive drugs that people are buying and selling and getting

1 high on.

2 So they send in Mr. Russo. Again, send him in.

3 Third visit. No pain. Zero on the 1-to-10 scale.

4 What does Dr. Szyman do? He increases the strength of
5 narcotics to 30 milligrams. The oxycodones. You know, the
6 immediate release. 30 of those. Gives him three a day. Gives
7 him 90 Oxys, immediate release. And his MEQ is already above
8 the threshold that would increase someone's likelihood of
9 overdose by 10 times.

10 This is a stranger who's made up a story, who's walked
11 in saying I got no pain. And imagine if he said he had pain. I
12 don't even know what he would have gotten at that point.
13 Imagine if he said, you know, I've got a sharp acute pain, I'm
14 really suffering right now.

15 I mean, so, it doesn't matter. You know, any
16 suggestion that, you know, Dr. Szyman was misled because these
17 patients lied to him, they said they had pain -- no. He doesn't
18 care. [Indiscernible] you have no pain you get drugs. He
19 knows.

20 I think back on Tanya Pivonka Dewane. You know, you
21 can tell people when they -- they've gone through rehab and
22 stuff. You know, they're trying to own up to their
23 responsibility. Not Dr. Szyman. Dr. Szyman, it's all known,
24 they lied to me, that's why he gave it to them. No.

25 And these -- I love when defense counsel says these

1 liars, oh, my God, they lied, these lies. Do you know what they
2 lied? They said they had no pain. Oh, my gosh. They really
3 fooled him [Indiscernible] -- pain by saying you had no pain,
4 those big liars.

5 No. No. They gave him every chance to demonstrate
6 that he had good faith. And [Indiscernible]. No. He doesn't
7 care whether the patients had tests. He doesn't care whether
8 they have pain or they complain or don't. He just gives them
9 drugs. That's what he did here.

10 Don't be fooled. Again, it's easy to take the witness
11 stand and put on a suit and say I'm [Indiscernible] doctor and I
12 have great faith and believe them. Look how he behaved when he
13 didn't know we were watching? When he didn't know it was being
14 recorded. And listen to what he did. Look how he behaved.

15 Your job is like in life. We've all been lied to.
16 We've all been told stories to. We've all told stories. Your
17 job is to look at somebody and figure out are they telling you
18 the truth. That's a hard thing to do.

19 But I think we all remember the best ways is to look
20 at people's actions, especially actions when they don't know
21 that they're being observed. That's an accurate way to
22 determine how someone really is acting. What they know, what
23 they're doing, what they intend. Hear what people say in
24 private, then you know what they're doing.

25 So what does he do here? He gives them more drugs.

1 He gives them more narcotics. He gives them the Oxy-30s.

2 What had Mr. Russo done to deserve an increase in his
3 medication? What did he deserve to get the Oxy-30s?

4 Well, he did say he had no pain. He's got a point
5 there. Or he did say, well, my normal routine is without extra
6 pain. He did say he could lift heavy objects without pain. He
7 did say he could walk any distance. Well, that could be painful
8 if you walk any distance. He says he sits in the chair without
9 pain, he can stand without pain. I can't do these things. He
10 says his sleep is never disturbed by pain. He's got social life
11 is normal, no extra pain.

12 Oh, okay. Well, now it all makes sense to me. So
13 what does he get from Dr. Szyman? He gets prescriptions for 30
14 -- these 90 oxycodone 30 milligram tabs to Richard Russo, a man
15 who doesn't exist, at an address he doesn't live at, with a date
16 of birth that is just made up, with no medical records, no
17 tests. And he gets two of them.

18 I think Dr. Szyman said they're worth about 30 bucks
19 apiece. \$2,700 worth of drugs just like that. Cha-ching.

20 And there's Dr. Szyman. He's just giving him drugs.
21 Getting the Oxy-30s.

22 Okay. Mr. Russo again. He tries again, just to make
23 sure. You know, again it's a fair test. It's -- you know --
24 you know, be suspicious but verify. You can't rely on -- you
25 know, it's fair. Bunch of patients who have been selling drugs

1 tell you Dr. Szyman's been providing them, you know, you gotta
2 test that. Law enforcement legitimately should test that.

3 And so, again, they send in Richard Russo again on
4 June 13, 2014, the basis of Count 4. He comes in again. He
5 continues to report no pain, zero pain on a 1 to 10 scale. And
6 then, as part of the investigation, he says, well, let's see if
7 we introduce another patient, see if the same thing will happen.
8 Again, maybe it's one off. Maybe, I don't know, Dr. Szyman for
9 whatever has some simpatico with Mr. Russo and feels some need
10 to help a person in no pain. You know, I'm helping people with
11 pain, I might as well start helping people with no pain,
12 [Indiscernible] left out.

13 So decides to go -- so they decide to introduce a new
14 person, Anna Kingston. Let's try a different patient. And sets
15 up sort of this really non -- you know, there's this 55-year-old
16 guy with his 22-year-old girl friend. Who [Indiscernible] in my
17 30s before.

18 So they start with the introduction of her and she
19 says, well, I don't have any pain right now. But -- but it's
20 just an introduction, let's get some face time with Dr. Szyman.

21 And Szyman still provides two prescriptions to
22 Mr. Russo. Again, more of these -- 90 of the 30 milligrams.
23 \$2,700 each they're worth on the street apparently.

24 And, again, how does Mr. Russo get them? Just says
25 he's having no problems.

1 There's no physical exam at any of this, right? I
2 mean, you saw the tapes. I'm not even sure that Richard Russo
3 on that tape ever even stood up out of his chair. You know,
4 Szyman came in, he's up at his little podium. You know, some of
5 the other patients described it. And then you can see it, that
6 little podium with the desk. And it's all pleasant, it's all
7 jovial. You know, he's just typing away.

8 But there's no -- there's not even a question about
9 how's your pain been, is it returning. You know, anything we
10 can do? No, there's just the narcotics road. We're just on the
11 narcotics road.

12 And, again, Russo says no pain. The whole thing.
13 Just completely -- healthier than I'm sure he actually is. 55.
14 No way. But, I mean, you read this. No pain. Lift heavy
15 weights. Walk any distance. I mean, all these things. Zero
16 pain. More prescriptions.

17 Fifth visit. Same thing. September 10th, 2014.
18 Russo comes back in. This is the basis of Count 5.

19 Again, continues to claim no pain. Zero on a 10
20 scale. Again, brings Ms. Kingston in because they're trying
21 again to see if -- what Dr. -- how Dr. Szyman would treat a
22 different patient, to see if it's more than -- you know, more
23 than just repeated times but do other patients get treated the
24 same way or no.

25 And, again, at this point Russo had provided a drug

1 screen that proves negative, right? It doesn't have any of the
2 oxycodone in it. But I think it was provided in June. And at
3 that point he was getting oxycodone. He was getting, you know,
4 a month's supply. He was getting to take four a day. And yet
5 there's none in there. Doesn't come up. Dr. Szyman just
6 keeps --

7 Because it doesn't mean anything. You know, as much
8 as, you know, defense counsel says, oh, they lie, they deceive
9 him with their urine drug screens or they try to manipulate him
10 and they told him they had pain. Again, it's clear. It doesn't
11 matter what you say, you're getting your narcotics.

12 And it gets increased throughout this time. And,
13 again, Russo says, you know, zero on a ten scale. No pain
14 today. But what does he get? You know, he gets prescription,
15 prescription, prescription. More prescriptions. Three more
16 prescriptions for Oxy-30s.

17 And at that point we transition to the second
18 undercover. Again, this is a thorough test. This isn't just
19 one person multiple times, this is a second person multiple
20 times.

21 Anna Kingston comes in. And, again, you'll recall how
22 that happens is -- one second.

23 Anna, on the fifth meeting with Russo, brings up the
24 fact, hey, they won't let me in. They won't sign me in. And so
25 Szyman says, okay, just put your name and number, say what your

1 problem is, and when the stars align he'll call and get him --
2 get him in.

3 Again, she says she doesn't really have any pain then.
4 And the front desk is probably doing what they can. People like
5 Nurse Kramer who testified -- I think she was gone by then, but
6 conceptually the same.

7 Trying to keep patients away from Dr. Szyman because
8 we know what happens.

9 But Dr. Szyman says, here, just write the number. And
10 I think Russo says, yeah, Szyman called me because they gave
11 Russo's phone number and said, yeah, have Anna call me directly.
12 Right? Because he's going to get her in. I think he said, you
13 know, it wouldn't be politically correct to do it at the time,
14 but just -- and so they do and he does. Sets up an appointment.

15 And so, again, Anna Kingston, again, it's recorded,
16 you can hear exactly what Dr. Szyman is saying.

17 Kelsey Knaup is the undercover officer, she posed with
18 Russo. Introduced earlier. Again, she has no medical records.
19 Remember this. This is a stranger. This is someone Dr. Szyman
20 doesn't know at all. Never seen before. She's got no medical
21 records, no x-rays, no MRIs. She gives Russo's phone number.
22 Just a bogus address. Says she has no current pain. On her
23 first visit she reports no current pain. Zero on the 10 scale.

24 And, again, despite all those things -- no medical
25 records, just no -- displaying no pain, Szyman, right out of the

1 box, gives her a prescription for 90 30-milligram oxys. 135
2 MEQ. Right out of the box. Right off jump street.

3 Right? An MEQ of 135. Already above the dose that
4 says you're gonna increase your likelihood of overdose by 10
5 times.

6 And you look at -- what do the patient files say?
7 Again, it reflects a zero that day. That it -- that at
8 worst whenever happens is five, but she's got none that day.
9 What does she get? Prescription for oxycodone.

10 And then Anna, Kelsey Knaup, after she's got those,
11 again, by saying she has no pain, has no records, she just calls
12 in and says -- and sees, can I get a -- can I just get a refill
13 of those oxys?

14 And so how does Szyman respond to that? Does he say
15 come in? You have to come in. Have to get a physical exam.
16 You have no support for any of this. I thought you weren't
17 going to get this much.

18 But, no. He just signs a prescription for her.
19 Right? Gives her another prescription for 90 30-milligram oxy
20 tabs.

21 Okay. Kingston, again, calls again. This is the
22 previous one I should say. The December 27, 2014, that's
23 Count 7 where she just calls in. Doesn't even have to show up
24 and Dr. Szyman will give her narcotics. So, you know, it's --
25 let's see. No pain. No medical records. No tests. No show

1 up. Narcotics, no problem. So she just calls in.

2 Next on January 14 at 2015, the basis of Count 8, she
3 does the exact same thing. Again, the question is, are
4 narcotics -- is Szyman just giving out narcotics? Yes. Because
5 she calls in, hey, can I get some more? Yes. There you are.
6 Another prescription. 90 30-milligram oxy tabs by Dr. Szyman.
7 Signs it.

8 You know, he has the ability to sign these
9 prescriptions to give people these narcotics, but it's not
10 legal. It's not for a legitimate medical purpose. He can't
11 hide behind his medical license. He's not practicing medicine.
12 He's just giving out narcotics.

13 And then, finally, Anna Kingston/Kelsey Knaup shows up
14 for a second appointment with Szyman. She again reports no
15 pain. And the basis of Count 9 are two prescriptions that
16 Dr. Szyman gives her for 30-milligram tabs, 90 again, again, 135
17 MEQ.

18 And, again, the patient file reflects how does Anna
19 indicate her situation is, her functionality? She says she has
20 no pain at the moment. Her personal care. She has normal
21 routine without extra pain. Can lift heavy weights without
22 pain. Able to walk any distance. Sits in any chair without
23 pain. Can occasionally -- can stand without pain and
24 occasionally her sleep can be disturbed by pain. Social life,
25 normal. No extra pain. And having pain today, no.

1 Now, you may recall Dr. Szyman testified that on the
2 second visit he just hadn't been paying attention and had been
3 writing those prescriptions, the second and third packages of
4 prescriptions, Counts 7 and 8. And it is a mistake I think is
5 what he said. And he's handing out narcotics to this person who
6 had no pain because he originally thought she was just going to
7 use some Oxy-30s once in a while. You know, what's a little oxy
8 between friends, here are some Oxy-30s. Thought maybe 90 would
9 last her three months.

10 He says, oh, then I -- I suddenly realized. I became
11 suspicious, I became worried. You know, maybe something else
12 was going on.

13 Again, you determine credibility, but use your common
14 sense. He says now because, of course, it's I guess it seems
15 like a little smarter thing to have done. I got suspicious
16 because I suddenly realized she was using these pills a lot more
17 than she should have.

18 But how does he respond to his suspicion? Does he
19 say, you know, I can't write you any more of this. You should
20 go see somebody else. Or we gotta find lower dose things. We
21 gotta find something else.

22 How does he respond? Does he in any way cut her down,
23 cut her off, say no, no, that's not what I'm in for? You can't
24 just come -- we're not just gonna hand out these Oxy-30s that
25 can be sold on the street for \$2,700. There's all these risks

1 of abuse and addiction and people getting high. People
2 overdosing.

3 No. How does he respond? Is he suspicious? You
4 know, his -- what is he -- you know, each of us I guess respond
5 to anxiety and stress and suspicion differently. What he does
6 is, he gives her more. He gives her enough drugs to be 90 a
7 month.

8 At first I didn't think that's what she wanted. I
9 didn't think that's what kind of patient she was. And then when
10 she was I became suspicious so I gave her the drugs. And, in
11 fact, as reflected, she reflected no additional pain. But he in
12 his own mind is giving her an increased level in dosage and
13 quantity of drugs.

14 So, you know, I know, again, he said, I only gave
15 people more drugs when they told me they had more pain. That is
16 just a flat out lie. Because Kelsey Knaup did not tell
17 Dr. Szyman she had any more pain. She just said she had been
18 using the pills. That doesn't -- and she, in fact, reported she
19 had zero problem.

20 And so what he decides to do is give her more drugs.
21 And so on that Dr. Szyman opioid spiral, the way that works is,
22 I give you so much drugs, if you use them up faster I'll give
23 you more. And then if you use those up I'll give you more.

24 So you get to -- you don't even have to -- you don't
25 even have to represent any increase in pain. Imagine, as I say,

1 eventually if she said, well, I've really got some pain, who
2 knows what she would have gotten.

3 But what he puts in the chart is, as highlighted here,
4 talking about Kelsey, Anna Kingston:

5 "However, she is now indicating that her pain is
6 increased and she would like to increase the amount of
7 medication she's receiving."

8 That's just a lie. That's just him explaining why
9 he's handing out narcotics. He's covering his ass. That's what
10 that is. That's not practicing medicine. That's just handing
11 out narcotics to anybody who comes in who says anything. I
12 mean, literally.

13 Think how little -- you saw the tapes, you've seen the
14 records -- how little it took to get Dr. Szyman to hand out
15 narcotics to these people. And there they are. Here's some
16 90s. Dr. Szyman.

17 As I say, it's a hard thing to determine truth. You
18 know, I don't know how we do it. You know, you try to look at
19 big picture things, little things. How do you determine when
20 someone's telling the truth or not?

21 But, as I say, look at someone's own statements when
22 they don't know that they're being recorded. How do they talk?
23 How do they behave when they don't know that people are
24 listening?

25 You listen to his own statements. His first

1 appointment with Richard Russo.

2 "So rumor has it you have no pain. What do we do
3 about that?"

4 Do you know what Dr. Szyman did about that? He handed
5 out narcotics.

6 And who makes the decision? You know, is he being a
7 doctor? Is he practicing medicine?

8 "So what are you looking for?"

9 That's Dr. Szyman.

10 "Do you have something in mind?"

11 He's asking the patient, tell me, what are you looking
12 for. He's not practicing medicine.

13 "Don't tell me what you don't want, tell me what you
14 want."

15 Now, tell me that isn't somebody on the street corner
16 handing out narcotics.

17 "What strength?"

18 And so who is deciding what drugs, how many, how
19 strong? Dr. Szyman is letting the patient decide and he's just
20 signing off on it. And he tells them:

21 "Random urine drug screens or pill counts,
22 unfortunately that's just the way it is. It's just a damper on
23 everything."

24 Yeah. It's just a damper on all the narcotic
25 distributing Dr. Szyman wants to do.

1 Next appointment -- or the appointment on February
2 5th, 2014.

3 "Russo reports he has no current pain and no
4 functional problems."

5 Szyman says: "Any changes you want to make?"

6 And I think Russo says: "The fives aren't working.

7 "Why don't you use tens?"

8 You know, no indication -- you know, no physical exam.
9 Just they're not working out. Not, well, how often is your pain
10 coming? You know, no discussion of pain, no physical exam.

11 Szyman says: "So how many of those do you think you'd
12 need?"

13 Russo says: "Two per day."

14 "I'll make it four a day."

15 And then he says: "I'll give you two prescriptions.
16 You know the scripts are only good for 60 days. So even if you
17 don't need the second script right away, you can get it filled
18 and you'll have it."

19 Again, he's just trying to give him a stockpile of
20 narcotics. He's telling him how to get the narcotics. Whether
21 you need it or don't need it, he's telling him.

22 The next appointment, the third appointment. Again,
23 remember, undercover, it's completely fabricated. Russo reports
24 no pain, no functional issues, but says he ran out early. So,
25 again, he's using him. He's running out early. And borrowed a

1 couple of 30s from his girlfriend.

2 Again, what does Dr. Szyman say? "Everybody loves
3 30s. It's got a kick. That's why everybody likes it. So I
4 don't care. How many would you need though?"

5 Russo asks for 30 or 60. Szyman gives Russo three
6 prescriptions for 90. So 90 a month.

7 And, again, is that someone practicing medicine? Is
8 that someone within a professional practice? Is that for a
9 legitimate medical purpose? No. That's cause he knows
10 everybody loves 30s, it's got a kick. That's why everybody
11 likes it. He knows that. He's been handing them out to
12 patients forever. He knows they've been selling them. This guy
13 comes in so he's giving them to him.

14 He goes: Yeah.

15 This is Dr. Szyman.

16 Yeah, because people love these OxyContin, the 30
17 milligram. [Indiscernible] it's not a good thing actually
18 because it's just be something else that'll cause a big social
19 hoopla. Yeah, the old OxyContin is the one, you know, that
20 started all this. Yeah, they changed the formula and that's how
21 people have come to do heroin, because they wanted that so
22 everybody is doing heroin now. Except some individuals realized
23 [Indiscernible] three milligram of oxycodone.

24 He's completely aware that these are a desired item on
25 the street. That some of the possibilities are you're gonna get

1 heroin, addicted to heroin, that you'll start using heroin. But
2 people love the OxyContin. You know, this isn't serious pain
3 relief, this is handing out narcotics for no legitimate medical
4 purpose and not within a professional practice.

5 So Dr. Szyman's spiraling road of narcotics. You
6 know, you had people who did have some actual pain. You had
7 people though, as Dr. Szyman knows, what happened to them, as
8 Dr. Szyman well knew, because he had done it before, he's
9 apparently educated about it, had seen it happen to his own
10 patients, you get this long spiraling road of higher doses of
11 narcotics. You get long-term dependencies, withdrawals. You
12 see people like Todd Orth, the withdrawal that he had to go
13 through. Sean Conway, inpatient. Miss Krizizke, she talks
14 about having to move to heroin. In rehab now. I think she says
15 she's been clean for some period of time.

16 You got patients who didn't need all the medications.
17 You know, maybe they needed something, but they sure didn't need
18 all the stuff Dr. Szyman was going to just hand out. Like Tanya
19 Pivonka-Dewane, Marilyn Valdez, Ramona Wolf, Deborah Ramirez.
20 How do you know? Because they're selling it. You know they
21 don't need it. Or Nancy Walt at least it was being stolen.
22 It's going somewhere. Her son was stealing it for some other
23 purpose.

24 You have people who got so much that their way out of
25 the Dr. Szyman spiraling road of narcotics was dying of the

1 excessive amounts of narcotics.

2 And then you have people who don't even have any pain
3 at all, right? You have these undercover. They don't complain
4 of pain, they never said they had pain. They said no functional
5 problems at all. And they get narcotics.

6 Ladies and gentlemen, that is the evidence that
7 establishes Dr. Szyman is guilty of each and every one of these
8 counts of illegally distributing narcotics, not for a legitimate
9 medical purpose and not within professional practice. He was
10 just dealing narcotics, giving it to anyone. Whether they said
11 they had pain or didn't have pain. Whether the urine screen
12 said they were clean or wasn't screened -- clean. Whether they
13 had medical records or didn't.

14 And as those undercover demonstrated, it didn't
15 matter. And to the extent Dr. Szyman represents that he did,
16 look at the evidence. It's easy to tell you, oh, yeah, yeah, I
17 really meant in good faith to help these people.

18 Look at the evidence. Look at his conduct. Look at
19 what he said. That's independent objective evidence of what he
20 did, what he said, and, therefore, what he knew and what he
21 intended. And I ask that your verdict reflect his guilt on each
22 and every one of those counts.

23 Thank you very much.

24 THE COURT: Thank you, Mr. Jacobs.

25 Ladies and gentlemen, we'll take a morning recess.

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(Recess taken at 10:54 a.m.)

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(See separate volume for Defendant closing argument
presented at 11:12 a.m, until 12:53 p.m.)

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TRANSCRIPT OF JURY TRIAL EXCERPT

GOVERNMENT REBUTTAL ARGUMENT

Transcribed From Audio Recording

12:54 p.m.

* * *

THE COURT: Go ahead, Mr. Jacobs. You have a brief rebuttal?

REBUTTAL CLOSING ARGUMENT

MR. JACOBS: Ladies and gentlemen, this is the last opportunity for the parties to address you. I won't take long.

It's your job to remember what the evidence was, to remember people's testimony, the records that were introduced, Dr. King's testimony, Dr. Szyman's testimony, various patients.

Part of what you need to decide is what someone knew and what they intended. And how you decide that is based on your review of that evidence.

And I recommend if you look back on the recordings of Dr. Szyman with Mr. Russo and Ms. Knaup, hear what his words were there, look at the records from that, look at how they behaved to Dr. Szyman, that will reflect what his intent was, what his knowledge was. And it's from that that you can discern someone's real intent and what they were doing.

And I suggest to you that when you review that evidence, it's from that that you can determine whether someone really did act in good faith or whether they abrogated their

1 role as a physician providing drugs for a legitimate medical
2 purpose. And that a review of that evidence and Dr. Szyman's
3 actions, words, behavior in those, will establish that he did
4 not distribute narcotics for a legitimate medical purpose.

5 That's what Dr. King said, that these narcotics were
6 not distributed as part of professional practice, and that
7 therefore they were illegally distributed by the writing of
8 those prescriptions. And when you review that evidence it will
9 support a verdict of guilty on all counts.

10 Thank you.

11 THE COURT: Thank you, Mr. Jacobs.

12 * * *

C E R T I F I C A T E

I, JOHN T. SCHINDHELM, RMR, CRR, Official Court Reporter and Transcriptionist for the United States District Court for the Eastern District of Wisconsin, do hereby certify that the foregoing pages are a true and accurate transcription of the audio file provided in the aforementioned matter to the best of my skill and ability.

Signed and Certified December 28, 2017.

/s/John T. Schindhelm

John T. Schindhelm

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